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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884,884	06/18/2001	Scott A. Hankins	011.0214.01	1724
22895	7590	01/12/2005	EXAMINER	
PATRICK J S INOUE P S			LE, VIET Q	
810 3RD AVENUE			ART UNIT	
SUITE 258			PAPER NUMBER	
SEATTLE, WA 98104			2667	

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/884,884	HANKINS ET AL.	
	Examiner	Art Unit	
	Viet Q. Le	2667	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) is/are withdrawn from consideration.
- 5) ☐ Claim(s) is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) is/are objected to.
- 8) ☐ Claim(s) are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. .
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. <u> </u> |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u> </u> | 6) <input type="checkbox"/> Other: <u> </u> |

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because the title of the application shall not appear on the page. Correction is required. See MPEP § 608.01(b).
2. The disclosure is objected to because of the following informalities: There is no system 40 of figure 1.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-8, 10-20, 22-40 are rejected under 35 U.S.C. 102(e) as being anticipated by Tod W. McNamara (U.S. 6,262,976), hereinafter referred to as McNamara.

Regarding claims 1 and 13, McNamara disclosed a system comprising: an analysis module analyzing a plurality of packets, each such packet comprising a source address of an originating host and a destination address of a receiving host (McNamara describes a method of classifying traffic packets into different classes by examining and analyzing source and destination address of the packets. In order for McNamara examining and analyzing the packets, McNamara system must have the capability of a packet analyzer module. See Fig. 6, block 50; See also column 12, lines 19-21); and a classification module classifying an unknown originating host located at the source address of an outbound packet as an inside host with high confidence, classifying an unknown receiving host located at the destination address of an inbound packet as an inside host, and reclassifying the unknown receiving host as an inside host with high confidence upon receiving a further outbound packet having a source address corresponding to the address of the unknown receiving host (McNamara describes his method classifying traffic packets into 4 different classes of: interior traffic, transitory traffic, interior to exterior traffic (source traffic) and exterior traffic to interior traffic (destination traffic) by looking into the headers of the packets like the source and the destination addresses to determine the traffic flow and inherently from these same information, one can determine if a host is residing inside or outside a network or a virtual sub-network. See Fig. 4; See also column 7, lines 5-14).

Regarding claims 2, 14, 27 and 34, McNamara disclosed a system, further comprising: the classification module further classifying an unknown originating host located at the source address of an inbound packet as an outside host (McNamara

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describes his method classifying traffic packets into 4 different classes of: interior traffic, transitory traffic, interior to exterior traffic (source traffic) and exterior traffic to interior traffic (destination traffic) by looking into the headers of the packets like the source and the destination addresses to determine the traffic flow and inherently from these same information like the source address and the traffic flow, one can determine if a host is an outside host. See Fig. 4; See also column 7, lines 5-14).

Regarding claims 3 and 15, McNamara disclosed a system further comprising: the classification module reclassifying the unknown originating host as an inside host with high confidence upon receiving an outbound packet having a source address corresponding to the address of the unknown originating host (McNamara describes his method classifying traffic packets into 4 different classes of: interior traffic, transitory traffic, interior to exterior traffic (source traffic) and exterior traffic to interior traffic (destination traffic) by looking into the headers of the packets like the source and the destination addresses to determine the traffic flow and inherently from these same information like the source address and the traffic flow, one can determine if a host is an inside host. See Fig. 4; See also column 7, lines 5-14).

Regarding claims 4, 16, 29 and 36, McNamara disclosed a system further comprising: the classification module further classifying an unknown receiving host located at the destination address of an outbound packet as an outside host (McNamara describes his method classifying traffic packets into 4 different classes of: interior traffic, transitory traffic, interior to exterior traffic (source traffic) and exterior traffic to interior traffic (destination traffic) by looking into the headers of the packets like

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the source and the destination addresses to determine the traffic flow and inherently from these same information like the destination address and the traffic flow, one can determine if a host is an outside host. See Fig. 4; See also column 7, lines 5-14).

Regarding claims 5 and 17, McNamara disclosed a system further comprising: the classification module reclassifying the unknown receiving host as an inside host with high confidence upon receiving an inbound packet having a destination address corresponding to the address of the unknown receiving host (McNamara describes his method classifying traffic packets into 4 different classes of: interior traffic, transitory traffic, interior to exterior traffic (source traffic) and exterior traffic to interior traffic (destination traffic) by looking into the headers of the packets like the source and the destination addresses to determine the traffic flow and inherently from these same information like the destination address and the traffic flow, one can determine if a host is an inside host. See Fig. 4; See also column 7, lines 5-14).

Regarding claims 6 and 18, McNamara disclosed a system further comprising: the classification module maintaining the inside host with high confidence classification of the unknown originating host upon receiving at least one of further inbound packets and further outbound packets (McNamara describes his method classifying traffic packets into 4 different classes of: interior traffic, transitory traffic, interior to exterior traffic (source traffic) and exterior traffic to interior traffic (destination traffic) by looking into the headers of the packets like the source and the destination addresses to determine the traffic flow and inherently from these same information like the source

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address, destination address and the traffic flow, one can determine if a host is an inside host. See Fig. 4; See also column 7, lines 5-14).

Regarding claims 7 and 19, McNamara disclosed a system further comprising: the classification module maintaining the inside host with high confidence classification of the unknown receiving host upon receiving at least one of further inbound packets and further outbound packets (McNamara describes his method classifying traffic packets into 4 different classes of: interior traffic, transitory traffic, interior to exterior traffic (source traffic) and exterior traffic to interior traffic (destination traffic) by looking into the headers of the packets like the source and the destination addresses to determine the traffic flow and inherently from these same information like the source address, destination address and the traffic flow, one can determine if a host is an inside host. See Fig. 4; See also column 7, lines 5-14).

Regarding claims 8 and 20, McNamara describes a system further comprising: the classification module managing packet traffic flow by monitoring the packets (See column 36, lines 42-44) and adjusting control flow thereof (See column 11, lines 24-27).

Regarding claims 10 and 22, McNamara disclosed a system, wherein the packets are communicated via a point-to-point protocol (See figure 1; See also column 1, lines 39-48).

Regarding claims 11 and 23, McNamara disclosed a system, wherein the packets are communicated via an end-to-end protocol (See figure 1; See also column 1, lines 39-48).

Regarding claims 12, 24, 32 and 39, McNamara disclosed a system, wherein the packets are communicated via the TCP/IP protocol and each source address and destination address is an internet protocol (IP) address (See figure 1A; See also column 1, lines 63-67; See also column 2, lines 1-8).

Regarding claims 25 and 40, McNamara disclosed a computer-readable storage medium holding code for performing the method (See column 20, lines 5-7).

Regarding claims 26 and 33, McNamara disclosed a system a system for classifying hosts in a heterogeneous computing environment, comprising: a table storing records comprising of states which each specify a location of a host (McNamara disclose storage or memory where network topology information was kept including the traffic packet classes. See column 18, lines 51-54); a traffic manager classifying the hosts based on source address and destination address (McNamara describes his method classifying traffic packets into 4 different classes of: interior traffic, transitory traffic, interior to exterior traffic (source traffic) and exterior traffic to interior traffic (destination traffic) by looking into the headers of the packets like the source and the destination addresses to determine the traffic flow and inherently from these same information like the source address, destination address and the traffic flow, one can determine if a host is an inside host. See Fig. 4; See also column 7, lines 5-14).

Regarding claims 28, 30, 35 and 37, McNamara disclosed a system where traffic manager or network routers are used to pass through traffic based on the source address and destination address in combination with what are stored in the memory about the traffic packet classes (McNamara describes his method classifying traffic by

looking into the headers of the packets like the source and the destination addresses to determine the traffic flow and inherently from these same information like the source address, destination address and the traffic flow, one can determine if a host is an inside host. See Fig. 4; See also column 7, lines 5-14).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 9, 21, 31 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over McNamara in view of the background art of the applicants' own application 09/884,884, hereinafter referred to as Hankins.

Regarding claims 9, 21, 31 and 38, McNamara describes his method of classifying traffic packets into 4 different classes of: interior traffic, transitory traffic, interior to exterior traffic (source traffic) and exterior traffic to interior traffic (destination traffic) by looking into the headers of the packets like the source and the destination addresses to determine the traffic flow and inherently from these same information like the source address and the traffic flow, one can determine if a host is an outside or an inside host. See Fig. 4; See also column 7, lines 5-14).

McNamara, however, fails to teach the capability of ignoring a certain traffic class of packets to avoid the double count problem encountered at the router or at the traffic manager.

Hankins disclosed in the background art of his own application that double counting the packet is a problem and need to be avoided at the traffic manager or the router (See page 2, paragraph 3).

It would have been obvious to one having ordinary skill in the art at the time invention was made to ignore packet traffic flow for each packet with an originating host or a receiving host classified as an inside host with high confidence, the motivation being that by ignoring traffic packets coming from the inside host will avoid the problem of being double counted by the traffic manager or the router.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Gregory Rakoshitz et al. (U.S. 6,578,077), Traffic monitoring tool for bandwidth management.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Viet Q. Le whose telephone number is 571-272-2246. The examiner can normally be reached on 8 AM -5 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached on 571-272-3139. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

vi

A handwritten signature in black ink, appearing to read 'Ricky Ngo', is positioned above the printed name and title.

**RICKY NGO
PRIMARY EXAMINER**